

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

**MICHAEL TED LAMB,  
TDCJ-CID # 790214  
Plaintiff,**

**v.**

**RICHARD L. CRITES, ET. AL.,  
Defendants.**

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**CIVIL ACTION NO. 2:11-cv-00027**

**DEFENDANTS CRITES AND GONZALES'S ANSWER AND JURY DEMAND IN  
RESPONSE TO PLAINTIFF'S AMENDED COMPLAINT**

**TO THE HONORABLE JUDGE OF SAID COURT:**

NOW COMES Defendants Richard Crites and Adam Gonzales, by and through the Attorney General for the State of Texas, and file this their Answer and Jury Demand in response to Plaintiff's Amended Complaint. In support thereof, Defendants respectfully offer the following:

**I.**

**ANSWER**

1. Pursuant to Federal Rule of Civil Procedure 8(b), Defendants deny each and every allegation contained in the Plaintiff's Amended Complaint (*Docket Entry No. 19*) except those expressly admitted herein.

*Docket Entry No. 19* pages 6-7

Paragraphs 1-19: Defendants lack sufficient information to admit or deny Plaintiff's allegations.

## II.

### DEFENDANTS' SPECIAL DENIALS AND ASSERTIONS OF FACT

2. Defendants assert that at all times relevant to Plaintiff's Amended Complaint, Michael Lamb, was an inmate in the custody of the Texas Department of Criminal Justice-Correctional Institutions Division (TDCJ-CID).
3. Defendant asserts that Plaintiff has not stated a claim upon which relief can be granted under 42 U.S.C. § 1983 or under any other statute, constitutional theory, or legal authority.
4. Defendants assert that any claim premised upon the doctrine of *respondeat superior* will not support a claim of constitutional dimension under 42 U.S.C. § 1983. Defendants, further, asserts that any claim premised upon negligence will not support a claim under 42 U.S.C. § 1983.
5. Defendants deny that Plaintiff was deprived of any right, privilege, or immunity granted or secured by the Constitution, the laws of the United States, and/or the laws of the State of Texas.
6. Defendants deny that they retaliated against Plaintiff for exercising his First Amendment rights.
7. Defendants deny that they violated Plaintiff's constitutional rights.
8. Defendant Gonzales assert that Plaintiff has not raised any claims against him.
9. Defendant Crites assert that he is not liable for actions of his subordinates under the theory of *respondeat superior*.
10. Defendants deny that Plaintiff is entitled to any relief demanded in his Amended Complaint.
11. Defendants assert that at all times relevant to this suit, they acted with the good faith belief that their actions were proper under the Constitution and laws of the United States and the

State of Texas. Defendants, further, assert that they acted, at all relevant times, in a manner both consistent with Plaintiff's clearly established constitutional rights and objectively reasonable in light of all surrounding circumstances. Defendants, further, assert that at all times relevant to this lawsuit, they performed discretionary acts in good faith and within the course and scope of their authority as public officers employed by the State of Texas. Finally, Defendants assert that any act or failure to act was not wilful, and wantonly negligent.

### **III.**

#### **DEFENDANTS' ASSERTIONS OF IMMUNITY**

12. Defendants assert their entitlement to qualified immunity for the retaliation claim brought under 42 U.S.C. § 1983 against them in their individual capacities.
13. Defendants assert Eleventh Amendment immunity for the retaliation claim asserted against them in their official capacities.

### **IV.**

#### **DEFENDANTS' AFFIRMATIVE DEFENSES**

14. In response to Plaintiff's 42 U.S.C. § 1983 claims, Defendants assert the exhaustion of administrative remedies defense under 42 U.S.C. § 1997e(e).
15. Defendants assert that Plaintiff caused or contributed to any damage or injury resulting from the alleged retaliation.

### **V.**

#### **DEFENDANTS' COUNTERCLAIM**

16. Defendants assert that this suit is frivolous and without merit and that as such, they are entitled to recover from Plaintiff the amount of any attorney's fees and costs incurred in

defending this suit pursuant to 42 U.S.C. § 1988.

17. Defendants assert that Plaintiff is not entitled to any injunctive relief.

**VI.**

**JURY DEMAND**

18. Should trial be necessary in the foregoing cause of action, Defendants respectfully demand a trial by jury.

**VII.**

**CONCLUSION**

19. WHEREFORE, PREMISES CONSIDERED, Defendants pray this case will be dismissed, Plaintiff shall take nothing, and Defendants may be awarded all costs and such other relief as they may be justly entitled.

Respectfully submitted,

**GREG ABBOTT**

Attorney General of Texas

**DANIEL T. HODGE**

First Assistant Attorney General

**BILL COBB**

Deputy Attorney General for Civil Litigation

**DAVID C. MATTAX**

Director of Defense Litigation

**DAVID A. TALBOT, JR.**

Assistant Attorney General

Chief, Law Enforcement Defense Division

/s/ NADINE PHILLPOTTS

Assistant Attorney General

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**ATTORNEYS FOR DEFENDANTS JAMESON,  
HASSETTE, CRITES AND GONZALES**

**NOTICE OF ELECTRONIC FILING**

I, NADINE PHILLPOTTS, Assistant Attorney General of Texas, do hereby certify that I have electronically submitted for filing, a true and correct copy of the above and foregoing in accordance with the Electronic Case Files system of the Southern District of Texas, on this the 7<sup>th</sup> day of June 2011.

/s/ NADINE PHILLPOTTS  
Assistant Attorney General

**CERTIFICATE OF SERVICE**

I, NADINE PHILLPOTTS, Assistant Attorney General of Texas, do hereby certify that true and correct of the above and foregoing **Defendants Crites and Gonzales' Answer and Jury Demand In Response to Plaintiff's Amended Complaint** has been served by placing same in the United States mail, certified return receipt requested, postage prepaid, on this the 7<sup>th</sup> day of June 2011, addressed to Plaintiff:

Michael Lamb, TDCJ-CID #790214  
McConnell Unit  
3001 South Emily  
Beeville, TX 78102  
*Appearing Pro Se*

/s/ NADINE PHILLPOTTS  
Assistant Attorney General